

TITLE 92: TRANSPORTATION  
CHAPTER II: SECRETARY OF STATE

PART 1070  
ILLINOIS SAFETY RESPONSIBILITY LAW

Section

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1070.Appendix A Post-Unsatisfied Judgment Action Form

AUTHORITY: Implementing and authorized by the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/Ch. 7].

SOURCE: Filed and effective December 17, 1971; codified at 6 Ill. Reg. 12674; repealed at 7 Ill. Reg. 13678, effective October 14, 1983; New Part adopted at 11 Ill. Reg. 20215, effective November 30, 1987; amended at 14 Ill. Reg. 6859, effective April 24, 1990; amended at 14 Ill. Reg. 10107, effective June 12, 1990; amended at 15 Ill. Reg. 15083, effective October 8, 1991; amended at 16 Ill. Reg. 2172, effective January 24, 1992; amended at 17 Ill. Reg. 8517, effective May 27, 1993; amended at 18 Ill. Reg. 10909, effective June 28, 1994; amended at 20 Ill. Reg. 398, effective December 20, 1995; amended at 20 Ill. Reg. 7956, effective May 30, 1996; amended at 24 Ill. Reg. 1672, effective January 14, 2000; emergency amendment at 27 Ill. Reg. 14361, effective August 20, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18458, effective November 24, 2003; emergency amendment at 30 Ill. Reg. 7974, effective April 14, 2006, for a maximum of 150 days; emergency expired September 11, 2006; amended at 30 Ill. Reg. 6392, effective April 12, 2007; amended at 32 Ill. Reg. 16507, effective September 25, 2008; amended at 32 Ill. Reg. 19163, effective November 25, 2008; amended at 35 Ill. Reg. 1790, effective January 13, 2011; amended at 36 Ill. Reg. 5575, effective March 26, 2012; amended at 37 Ill. Reg. 3319, effective February 28, 2013; amended at 38 Ill. Reg. 6119, effective February 27, 2014; amended at 38 Ill. Reg. 20054, effective October 1, 2014; amended

at 42 Ill. Reg. 16552, effective August 23, 2018; amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1070.10 Forms of Security

a) For purposes of this Section, the following definitions shall apply:

"Bank Draft" – a negotiable instrument that contains an unconditional promise to pay a certain sum of money that is payable on demand or at a definite time to the bearer or to order as provided in Section 3-104 of the Uniform Commercial Code [810 ILCS 5/3-104].

"Cashier Check" – a check that is the primary obligation of the issuing bank as indicated in Section 4-211 of the Uniform Commercial Code [810 ILCS 5/4-211]. It is drawn by the bank itself and issued by an authorized officer of the bank.

"Certified Check" – a check of a depositor drawn on a bank of which the holder of the check procures certification and the drawer and all prior endorsers are discharged as provided in Section 3-411 of the Uniform Commercial Code [810 ILCS 5/3-411]. The words "accepted or certified" are on the check along with the date and the signature of a bank official.

"Department" – Department of Driver Services of the Office of the Secretary of State.

b) The Department shall accept as security to establish proof of financial responsibility following an accident for purposes of the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/Ch. 7] the following: certified checks, money orders, bank drafts, cashier checks, surety bonds, and cash. The amount of security required is determined by the Illinois Department of Transportation. The person depositing security shall stipulate on a designated form supplied by the Secretary of State on whose behalf the deposit is made.

c) A surety bond shall not be accepted by the Department as a deposit of security as required by Section 7-201 of the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/~~7-201~~] unless the following conditions are met:

1) The form is completed.

2) The surety company is authorized to do business in Illinois or a power of attorney is executed in accordance with Section 7-203 of the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/~~7-203~~].

- 3) The bond specifies whom it is to cover.
  - 4) The signatures are notarized.
  - 5) The bond is accompanied by a power of attorney.
- d) If a surety bond is accepted by the Department and the surety company later does not pay a judgment upon demand of the Department, the Department shall not accept any further bonds from the surety company until payment is made.
- e) If a surety company has failed and ceased operations by order of a court, the Department shall notify the interested party(ies) that his/her driver's license and/or registration shall be suspended in 30 days if he/she does not deposit the security required by Section 7-201 of the Illinois Safety Responsibility Law.
- f) If a person's security requirement has not been terminated pursuant to Section 7-210 of the Illinois Safety and Family Financial Responsibility Law [625 ILCS ~~5/7-210~~], he/she shall be eligible to file an affidavit for termination of surety bond ~~2 years after the date of the suspension~~ attesting that: (i) 2 years have elapsed since the suspension occurred, or (ii) that the applicable statute of limitations has expired, regardless of the length of time the suspension has been in effect and that no suit for claims or damages and/or personal injuries have been instituted and are now pending ~~no suits for claims for damages and/or personal injuries have been instituted and are now pending, nor does any judgement rendered remain unsatisfied.~~
- g) All security deposits shall be deposited at the following address: Department of Driver Services, Safety and Financial Responsibility Section 2701 South Dirksen Parkway, Springfield, IL 62723. No security shall be considered deposited until it is received by the Department at the above mentioned address in one of the above mentioned forms of security specified in subsection (b) of this Section hereof.

(Source: Amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### **Section 1070.40 Disposition of Security**

- a) For purposes of this Section, the following definitions shall apply:

"Claim" – a demand for something rightfully or allegedly due.

"Claimant" – person or persons making claim.

"Default" – failure to make a payment when due.

"Department" – Department of Driver Services within the Office of the Secretary of State.

"Discharged in Bankruptcy" – a legal order for release from a debt or debts.

"Installment Agreement" – agreement to pay debt in payments pursuant to Section 7-208 of the Illinois Safety and Family Financial Responsibility Law.

"Judgment Creditor" – person who is owed money due to a court judgment in his/her favor.

"Proper Notice" – notice provided by, but not limited to any of the following: Petition in Bankruptcy; Notice of Meeting of Creditors; Schedule A-3 of Schedule of Creditors; Trustee Report of No Assets; Discharge of Bankruptcy; Notice of Automatic Stay; Chapter 13 Wage Earner Plan.

"Release" – to give up or surrender a claim.

"Security" – deposit made to satisfy any potential judgment or judgments for money damages following an accident as provided in Section 7-201 of the Illinois Safety and Family Financial Responsibility Law.

- b) If a person has security deposited with the Department and the Department subsequently receives proper notice that the person has filed a petition for bankruptcy, then the Department shall forward the posted security directly to the bankruptcy court for disbursement during the normal course of the bankruptcy proceedings, and so provide notification to the debtor.
- c) If a person has security deposited with the Department and the claim for which the security was deposited has been discharged in bankruptcy without proper notice having been provided the Department, then upon application by the depositor, the security shall be refunded to the depositor if the Department receives documentation representing that the claim for which the security was deposited has been discharged, or the bankruptcy court's order of discharge listing the discharged parties and claim.
- d) A person posting a security who wishes to have the security released to a party or parties other than himself/herself shall provide to the Department a notarized

letter directing payment to the claimants. The person who is to receive the deposit shall send to the Department a notarized release for the amount of the deposit before payment will be made.

- e) A security deposit shall be released by the Department after the Department receives a court order directing payment as provided in Section 7-214 of the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/7-214].
- f) If a security deposit is refunded because a person enters into an installment agreement and that person later defaults, the Department shall suspend the driving privileges and/or registration of that person until he/she redeposits the original amount of security or meets the other requirements set forth in Section 7-208(c) of the Illinois Safety and Family Financial Responsibility Law.
- g) A security deposit shall be refunded if the Department receives a notice of rescind of certification from the Illinois Department of Transportation, or an order of exoneration from the Secretary of State's Department of Administrative Hearings.
- h) A security deposit shall also be refunded if the Department receives a certified court order indicating the security deposit should be refunded because the judgment has been satisfied, the case has been dismissed, or the party posting the security is not liable.
- i) A security deposit shall be refunded if no legal action has been taken within 2 years after the date of the suspension or upon the expiration of the applicable statute of limitations, whichever occurs first, and the Department receives a notarized affidavit from the person depositing the security stating that to the best of his/her knowledge, he/she has not been or is not being sued. To verify this, the Department shall send the interested party a letter and give him/her 2 weeks to respond. If he/she responds that he/she has not sued or does not respond, the Department shall close the case and refund the security deposit. If the interested party responds with a copy of the summons and complaint indicating court action has been initiated within 2 years from the date of the suspension, the security shall not be refunded to the depositor.
- j) Upon application by a judgment creditor seeking to obtain a security deposit, the Department shall notify the party who deposited the security or his/her authorized representative of the receipt of the unsatisfied judgment and that the security deposited shall be used toward satisfying the judgment, unless thence notified within 14 days by the party who deposited the security that the judgment has otherwise been satisfied. If no adequate response is obtained from the person who has deposited security, then the Department shall release the deposit to the judgment creditor or his/her authorized representative upon receipt of a certified

full or partial satisfaction of judgment.

- k) If the security deposit so released pursuant to an unsatisfied judgment received by the Department only comprises a partial satisfaction of judgment, the remainder shall be paid by the driver or party posting the deposit or the driver shall be suspended. His/her driving privileges and vehicle registration shall not be restored until proof of satisfaction of judgment is submitted to the Department and future proof of financial responsibility is filed for judgments in the amount of \$500 or more.
- l) A surety bond shall be terminated if no legal action has been taken within 2 years after the date of a suspension, or upon the expiration of the applicable statute of limitations, if the Department receives from a person a letter for termination of a surety bond stating that to the best of his/her knowledge he/she has not been or is not being sued. To verify this the Department shall send the interested party a letter and give him/her 2 weeks to respond. If he/she responds that he/she has not been sued or does not respond, the Department shall terminate the surety bond. If the interested party responds with a copy of the summons and complaint indicating court action has been initiated within 2 years from the date of the suspension, the surety bond shall not be terminated.
- m) If a judgment creditor wishes to obtain a payment from a surety bond to satisfy a judgment, he/she shall notify the Safety and Financial Responsibility Section of the Department. The Department shall send a letter to the party who purchased the surety bond and his/her authorized representative informing him/her that the surety bond shall be used toward satisfying the judgment if he/she does not otherwise satisfy the judgment and notify the Department within 14 days after the procedure used to satisfy the judgment. A copy of the letter shall also be sent to the judgment creditor, his/her authorized representative, and the surety company. The Department shall thereafter make a demand on the surety company for the bond and send a copy of the letter to the judgment creditor and his/her authorized representative. If the surety bond only comprises partial satisfaction of judgment, the remainder shall be paid by the driver or the person who posted the surety bond or the driver's license and/or registration shall be suspended. His/her driving privileges and/or vehicle registration shall not be restored until proof of satisfaction of judgment is submitted to the Department and future proof of financial responsibility is filed for judgments in the amount of \$500 or more.
- n) *If, after releasing security to a judgment debtor or claimant, the balance of the security posted with the Secretary is \$5 or less, the balance shall be transferred to the General Revenue Fund. The Secretary will compile a list of all security amounts of \$5 or less annually in July and will certify that amount to the State Comptroller. As soon as possible after receiving the certification, the State*

258                    *Comptroller shall order transferred, and the State Treasurer shall transfer, the*  
259                    *amount certified to the General Revenue Fund. [625 ILCS 5/7-214]*

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261                    (Source: Amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)